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July 21, 2021

VIA ECF

Honorable Loretta Preska
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

RE: *Chevron v. Donziger*, Case No. 19 Cr. 561 (LAP)

Dear Judge Preska:

I bring to your attention one more factor to be considered by the Court in this bail proceeding: the fact of Judge Kaplan having withdrawn, in response to post-trial evidence of Guerra's perjury, reliance on his bribery finding as necessary to his RICO judgment.

Judge Kaplan constructed his bribery finding to insulate his judgment from reversal in case his knife-edge reliance on Guerra's credibility in his trial opinion should fall apart post trial. Which it did, and which was brought to Judge Kaplan's attention and addressed by him in his "cost order" with re-affirmance of his RICO judgment "without necessary regard to whether Donziger and the LAPs bribed former Judge Zambrano, the only point on which Guerra's testimony was critical." 11-cv-691 Dkt. 1959 at 13.

Judge Kaplan acknowledged that Guerra's testimony was essential and crucial to his bribery finding. He fended off concern for it by resting his judgment on his other findings. This undercuts preclusive reliance upon it as a basis for legal belief. I have now brought this to the attention of the New York Court of Appeals in the context of New York's summary disbarment of Mr. Donziger. *See* Ex. A (Motion for Reconsideration, In the Matter of Steven R. Donziger, N.Y. Ct. App., dated June 5, 2021); Ex. B (Opposition to Motion for Reconsideration, dated June 21, 2021); Ex. C (Sur-reply, dated July 1, 2021).

I bring it now to the attention of this Court:

Judge Kaplan's withdrawal of his bribery finding as support for his RICO judgment should be a factor in your consideration of Donziger's liberty claim for bail.

Hon. Loretta A. Preska
July 21, 2021
Page 2 of 2

Respectfully,

/s

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